

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

In Re: Linda C. Knight)
Map 120-15-0, Parcel 19.00)
Residential Property) Davidson County
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The Davidson County Assessor of Property ("Assessor") has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$14,000	\$165,600	\$179,600	\$44,900

An Appeal has been filed on behalf of the property owner with the State Board of Equalization ("State Board") on October 3, 2005 (post-marked Sept. 30th, 2005).

The undersigned administrative judge conducted a hearing of this matter on May 9, 2006, at the Davidson County Property Assessor's Office. In attendance at the hearing were the appellant, Linda C. Knight and Jason Poling, Metro. Property Assessor's representative.

Findings of Fact and Conclusions of Law

This appeal concerns a one and one-half-story house at 407 McGavock Pike, in Nashville, Tennessee. The home is located near the Metro. Airport in an area noted by the taxpayer as the airport acquisition area.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee (T.C.A. § 67-5-1412 [2(e)]) generally requires a taxpayer to:

Appeals to the state board of equalization from action of a local board of equalization must be filed before August 1 of the tax years, or **within forty-five (45) days of the date notice of the local board was sent, whichever is later.** (Emphasis supplied)

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control.** (*emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond her control prevented her from appealing to the State

Board of Equalization in a timely fashion. It is the taxpayer's burden to prove that they are entitled to the requested relief.

The taxpayer, Ms. Knight, in this case could only say that she miss counted; she thought that she had filed timely. The deadline for filing with the State Board this year was September 29, 2005 (some taxpayers have missed the date because they forgot that August has 31 days not 30).

After reviewing the documentation there is, regrettably, not sufficient reasonable cause to maintain that incidents beyond the taxpayers control prevented her from filing with the State Board within the time frame allowed by statute.

However, even assuming arguendo that the State Board had jurisdiction the taxpayer would still not be able to obtain relief from the Board.

The taxpayer, Ms. Knight, proceeded to the Metropolitan County Board complaining that her property was valued too low. Ms. Knight alleged that her land value did not increase as in some areas and that with the improvements and upgrades she has made to her property since the last reappraisal entitled her to higher improvement values as well.

Complaints to the County Board of Equalization are authorized by T.C.A. § 67-5-1407;

(a) (1)

(A)

(B) Property under appeal or protest by the taxpayer has been assessed on the basis of an appraised value that is **more** than the basis of value provided for in part 6 of this chapter; and

(C) [Emphasis added.]

Complaints and appeals to the State Board are authorized by T.C.A. § 67-5-

1412. But under the terms of subsection (b) of that section:

The taxpayer or owner must first make complaint and appeal to the local board of equalization unless he shall not have been duly notified by the assessor of property of an **increase** in his assessment or change in classification as provided for in section 67-5-508. [Emphasis added.]

The administrative judge can find no statutory authorization for the taxpayer to request an increase in the valuation of her property.¹

ORDER

It is, therefore, **ORDERED** that this appeal be dismissed for lack of jurisdiction.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case

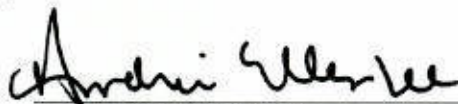
¹ The Taxpayer, Ms. Knight, believes that the County is intentionally trying to under value her property in the event that the Airport Authority tries to acquire her property, her remedy is to seek a qualified appraisal to be used in the negotiation process not this course of action.

Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 2nd day of June, 2006.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Linda C. Knight
Jo Ann North, Davidson County Assessor